

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

REMARKS

Reconsideration of the Office Action of December 21, 2006 is requested.

A. 35 U.S.C. § 101

In the Office Action, claims 7-16 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. In particular, the inventions of claims 7-16 were rejected for failing to recite a tangible result or physical transformation. Claim 7 has been amended to clarify that a monitor receives the report message. Since the receipt of a report message by a monitor constitutes a tangible result or physical transformation, the rejection has been overcome and should be withdrawn.

B. 35 U.S.C. § 103

1. Claims 1-6

Claims 1-6 were rejected under 35 U.S.C. § 103 as being obvious in view of Raverdy et al., U.S. Patent Application Publication No. US 2002/0068631 A1, and Kavounis et al., U.S. Patent Application Publication No. US 2002/0116213 A1. Applicants traverse the rejection. In particular, independent claim 1 recites both “receiving a report message on the at least one technical parameter via the communications network” and “interpreting the report message for presentation on a user interface to coordinate the management of the at least one technical parameter for trading partners within a trading group.” The Examiner in the Office Action has conceded that Raverdy et al. fails to disclose the recited “receiving” and “interpreting” processes (Office Action, page 5). The

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

Examiner asserted that Kavounis et al. cured the deficiencies of Raverdy et al. by suggesting to alter Raverdy et al. to send “an immediate report of the technical parameter of the system” (Office Action, page 5). However, a review of Kavounis et al. reveals that it regards displaying information as to how a business entity is performing. Kavounis et al. is silent as to receiving or interpreting report messages regarding a technical parameter of a remote data processing system. The passages at paragraphs 0005-0009 and 0030 of Kavounis et al. relied on by the Examiner regard the monitoring of performance measures and metrics of a business (see paragraph 0005, for example) and not the technical parameter of a remote data processing system. Since there is no suggestion or motivation in Kavounis et al. to alter Raverdy et al. to perform the recited “receiving” and “interpreting”, the rejection is improper and should be withdrawn.

Despite the impropriety of the rejection, claim 1 is being amended to clarify that the recited at least one technical parameter “includes information related to operation characteristics of any one of the remote data processing system, the communications network or a base data processing system in communication with the remote data processing system via the communications network.” Since Kavounis et al. does not disclose “receiving” and “interpreting” such a parameter, the rejection should be withdrawn.

Applicants traverse the rejection of claims 2-6, which depend directly on claim 1, and are therefore patentable for the reasons stated above with respect to claim 1.

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

Note that claim 3 has been amended to correct an obvious typographical mistake. Claim 5 has been amended to use proper Markush group language. Since the amendments regard either the correction of a typographical error or correction of the format of a claim and do not change the intended scope or meaning of the claims, the amendments are not being made for reasons related to patentability as defined in *Festo Corporation v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd*, 234 F.3d 558, 56 USPQ2d 1865 (Fed. Cir. 2000) (*en banc*), *overruled in part*, 535 U.S. 722 (2002).

2. Claims 7-16

Claims 7-16 were rejected under 35 U.S.C. § 103 as being obvious in view of Raverdy et al. and Kavounis et al. Applicants traverse the rejection. In particular, independent claim 7 recites “receiving a report message containing technical parameter data on a remote data processing system via the communications network,” “retrieving reference technical parameter data from a reference parameters storage based on the report message” and “determining whether the received technical parameter data of the report data message complies with the retrieved reference technical parameter data.” Raverdy et al. does not disclose the recited “receiving,” “retrieving” and “determining” processes. While the Examiner in the Office Action has conceded that Raverdy et al. fails to disclose the recited “receiving” process, he asserts that Raverdy et al. discloses the “retrieving” and “determining” processes (Office Action, pages 7-8). A review of Raverdy et al. fails to reveal the recited “reference parameters storage” and any determination whether technical parameter data of a report message complies with retrieved technical parameter data. The passages

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

of Raverdy et al. relied on by the Examiner at paragraphs 0016 and 0100 are silent as to the recited “retrieving” and “determining.” For example, paragraph 0016 of Raverdy et al. regards completing a transfer procedure regarding electronic certificates. Since Kavounis et al. does not suggest altering Raverdy et al. to perform the recited “retrieving” and “determining”, the rejection is improper and should be withdrawn.

The rejection is improper for the additional reason that Kavounis et al. does not suggest altering Raverdy et al. to perform the recited “receiving.” As mentioned above in Section B.1, Kavounis et al. is silent as to receiving a report message regarding a technical parameter of a remote data processing system. Accordingly, the rejection is improper and should be withdrawn.

Despite the impropriety of the rejection, claim 7 is being amended to clarify that the recited technical parameter “includes information related to operation characteristics of any one of the remote data processing system, the communications network and a base data processing system in communication with the remote data processing system via the communications network.” Since Kavounis et al. does not disclose the recited “receiving”, “retrieving” and “interpreting” processes regarding such a technical parameter, the rejection should be withdrawn.

Applicants traverse the rejection of claims 8-16, which depend directly or indirectly on claim 7, and are therefore patentable for the reasons stated above with respect to claim 7.

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

Applicants traverse the rejections of claims 11 and 14 in that Raverdy et al. fails to disclose installing an upgrade software module after receipt of confirmation that a requisite hardware upgrade has been successfully completed. The passages of Raverdy et al. relied on by the Examiner at pages 9 and 10 of the Office Action are silent as to the recited receipt of confirmation. Since Kavounis et al. does not suggest altering Raverdy et al. to perform the recited receipt of confirmation, the rejection is improper and should be withdrawn.

Applicants traverse the rejections of claims 12 and 15 in that Raverdy et al. fails to disclose delaying transmission of a revision (claim 12) or a desired version of an upgrade software module (claim 15) if same software components (claim 12) or same software modules (claim 15) are not specified in the reference technical parameter data and the received technical parameter data. The passages of Raverdy et al. relied on by the Examiner at pages 9-11 of the Office Action are silent as to the recited delaying transmission. Since Kavounis et al. does not suggest altering Raverdy et al. to perform the recited delaying transmission, the rejection is improper and should be withdrawn.

Applicants traverse the rejection of claim 16 in that Raverdy et al. fails to disclose revising a reference parameters storage. The passages of Raverdy et al. relied on by the Examiner at page 11 of the Office Action are silent as to the recited revising. Since Kavounis et

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

al. does not suggest altering Raverdy et al. to perform the recited revising, the rejection is improper and should be withdrawn.

3. Claims 17-21

Claims 17-21 were rejected under 35 U.S.C. § 103 as being obvious in view of Raverdy et al. and Kavounis et al. Applicants traverse the rejection. In particular, independent claim 17 recites both “a monitor for receiving a report message on the at least one technical parameter via the communications network” and “an interpreter for interpreting the report message for presentation on a user interface. The Examiner in the Office Action conceded that Raverdy et al. failed to disclose the recited “monitor” and “interpreter” (Office Action, page 11). The Examiner asserted that Kavounis et al. cured the deficiencies of Raverdy et al. (Office Action, page 12). However, the recited “monitor” and “interpreter” perform “receiving” and “interpreting” processes that are similar to those recited in claim 1. As pointed out in Section B.1, Kavounis et al. is silent as to receiving or interpreting report messages regarding a technical parameter of a remote data processing system. Since there is no suggestion or motivation in Kavounis et al. to alter Raverdy et al. to use the recited “monitor” and “interpreter”, the rejection is improper and should be withdrawn.

Despite the impropriety of the rejection, claim 17 is being amended to clarify that the recited at least one technical parameter “includes information related to operation characteristics

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

of any one of the remote data processing system, the communications network and a base data processing system in communication with the remote data processing system via the communications network.” Since Kavounis et al. does not disclose a “monitor” or “interpreter” that use such a parameter, the rejection should be withdrawn.

Applicants traverse the rejection of claims 18-21, which depend directly on claim 17, and are therefore patentable for the reasons stated above with respect to claim 17.

Note that claim 20 has been amended to use proper Markush group language. Since the amendment regards the correction of the format of the claim and does not change the intended scope or meaning of the claim, the amendment is not being made for reasons related to patentability as defined in *Festo*.

4. Claims 22-28

Claims 22-28 were rejected under 35 U.S.C. § 103 as being obvious in view of Raverdy et al. and Kavounis et al. Applicants traverse the rejection. In particular, independent claim 22 recites “a monitor for receiving a report message on at least one technical parameter of a remote data processing system via the communications network,” “a data manager for retrieving reference technical parameter data from a reference parameters storage” and “a data processor for determining whether the received technical parameter data of the report data message complies with the retrieved reference technical parameter data.” Raverdy et al. does not disclose the

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

recited “monitor,” “data manager” and “data processor.” While the Examiner in the Office Action conceded that Raverdy et al. failed to disclose the recited “monitor”, he asserted that Raverdy et al. disclosed the “data manager” and “data processor” (Office Action, page 14). However, the recited data manager and data processor perform “retrieving” and “determining” processes that are similar to those recited in claim 7. As pointed out in Section B.2, Raverdy et al. does not disclose the “retrieving” and “determining” processes and so it follows that Raverdy et al. does not disclose the associated “data manager” and “data processor.” For reasons similar to those given in Section B.2, Kavounis et al. does not suggest altering Raverdy et al. to use the recited “monitor,” “data manager” and “data processor.” Accordingly, the rejection is improper and should be withdrawn.

Despite the impropriety of the rejection, claim 22 is being amended to clarify that the recited at least one technical parameter “includes information related to operation characteristics of any one of the remote data processing system, the communications network and a base data processing system in communication with the remote data processing system via the communications network.” Since Kavounis et al. does not disclose the recited “monitor,” “data manager” and “data processor” that use such a technical parameter, the rejection should be withdrawn.

Appl. No. 09/945,188
Amdt. dated March 21, 2007
Reply to Office Action of December 21, 2006

Applicants traverse the rejection of claims 23-28, which depend directly or indirectly on claim 22, and are therefore patentable for the reasons stated above with respect to claim 22.

D. New Claim 29

New claim 29 is being presented solely to provide additional coverage for the method of claim 7. Since claim 29 depends directly from claim 7, it is patentable over the cited art for at least the reasons given in Section B.2 and it is not being presented for reasons related to patentability as defined in *Festo*.

CONCLUSION

In view of the arguments above, Applicants respectfully submit that all of the pending claims 1-29 are in condition for allowance and seeks an early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an



Appl. No. 09/945,188

Amdt. dated March 21, 2007

Reply to Office Action of December 21, 2006

interview would be helpful to resolve any remaining issues, she is respectfully requested to contact the undersigned attorneys at (312) 321-4200.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John C. Freeman", written over a horizontal line.

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